

City of Detroit


CITY COUNCIL

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TO: The Honorable City Council

FROM: David Whitaker, Director 
Research & Analysis Staff

DATE: October 24, 2007

RE: **ISSUES RELATING TO THE CITY COUNCIL RULES OF ORDER**

In September of this year Your Honorable Body began to operate within the framework of a traditional standing committee structure. This was a significant change as every Detroit City Council for at least the last 100 years has operated as a Committee of the Whole when discussing and deliberating the many issues before it.

The shift to standing committees required a complete revamp of Council's previous manner of operating and also necessitated a change in the rules that governed those operations. The Working Group convened by Your Honorable Body along with Research & Analysis Division (RAD) staff spent many hours researching, discussing and shaping the skeleton of a structure that was designed to move the City's work through Council much more efficiently yet afford Your Honorable Body the opportunity to perform its due diligence more thoroughly than before. The approach that was used to achieve this relied in large part upon an examination of the practices of other large city councils that operated under the umbrella of standing committees. Discussions with Your Honorable Body provided further guidance in the development of this format and led to the drafting of rules of procedure to govern this newly formed creation.

Inherent with any completely new method of operation is the expectation that questions will arise that need to be answered and wrinkles will appear in the fabric of the plan that must be ironed. City Council's shift to a traditional committee structure was no exception. Questions arose at many junctures. RAD has responded to each issue as it arose by revisiting the rules for possible revision through the Rules Committee or researching the law in an attempt to provide Your Honorable Body with the most practical or responsible interpretation or answer. In some instances RAD has learned

through research that an action taken by Council in the past will no longer be permitted under the new committee structure or that it must be undertaken in a different fashion. It is expected that this learning process will continue for some time before all runs smoothly. The rules that govern a body should be a living, breathing document so that they may be adjusted from time to time to best serve the body.

In an effort to assist the learning process RAD has compiled a FAQ (Frequently Asked Questions) format to serve as guidance in uncertain areas. We have included questions that have been answered in other reports in addition to issues that have only recently been presented for an opinion. We believe this approach will provide the information Your Honorable Body needs in a form that is easy to access and more practical for quick relief. It is our hope that this report along with your Rules of Order may come to be relied upon during your adjustment to the new committee structure. Please advise should you require additional information.

Frequently Asked Questions

1. Is Council in violation of the Charter by not meeting as a whole body every day of the week? Does the Standing Committee structure make Council part-time?

According to the 1997 Charter of the City of Detroit, Section 4-102, "Meetings":

"The City Council shall hold its first (1st) meeting in the first (1st) week of January after the regular City General Election and, during ten (10) months of the year, shall meet every business day unless otherwise provided by resolution at such times and places as it may provide." (Emphasis added)

On February 28, 2007, City Council passed a resolution approving the Rules of Order of the Detroit City Council that created a Standing Committee structure. This Standing Committee structure replaced the daily Committee of the Whole meeting structure. As provided in the Charter quoted above, the phrase "*unless otherwise provided by resolution at such times and places as it may provide*" clearly allows the Council to change its meeting dates as This Honorable Body did when it passed on July 25, 2007 a resolution that stated the meeting dates and times of the newly created Standing Committees.

Questions have also arisen relative to the full-time status of Council members and the intent of the framers of the 1997 Charter of the City of Detroit. Mr. Jeffery D. Blaine, the Executive Director of the 1993-1996 Detroit Charter Revision Commission, has written a memo that addresses this issue. It is attached for your review. In short, he states that it was not the intent of the Charter Commission that City Council operate under a

committee structure *in addition* to a committee of the whole but rather that a committee structure *replace* the Committee of the Whole meetings. He also notes that the “legislative responsibilities assigned by the City Charter to the City Council have not changed.” RAD is in agreement with this contention. Your Honorable Body is not a full-time council based upon the number of hours it sits at the table in a Committee of the Whole. To the contrary, it continues to be a full-time working council because the nature and quantity of its work has not diminished in any capacity but is simply performed in a different manner. It was the belief of the 1993-1996 Charter Commission that a move to committees would actually improve the *quality* of that work. Nothing in the new Council rules can or even attempts to diminish the role of Council Members in their capacity as duly elected representatives of the people of Detroit.

2. What authority does a non-committee member have when attending a Standing Committee meeting of which they are a not member?

Authority lies with the members of the Standing Committee for issues before that Standing Committee. Non-Standing Committee Council Members can exercise their authority at Formal Session through their voting power. They may also ask questions during a discussion of the line item and/or make a motion to have the item referred back to the Standing Committee if they are not satisfied.

3. Explain the position of Ex-Officio. Is the title “Ex-Officio” transferred from Council Member to Council Member, if the President is not attending a Standing Committee meeting?

RAD has opined that when the President is not in attendance the title Ex-Officio” transfers to the President Pro Tem in accordance with Council Rule 7.2 which states “The President Pro Tempore shall, during the absence of the President, have and exercise all the duties and powers of the office of the President.” Council Rule 6.11 Absence of President and the President Pro Tempore allows the next ranking member, by recent election, to assume the duties of the President. It was under this theory that RAD stated that the “Ex-Officio” title would also pass to the non-committee member present holding the highest rank.

Section 4-106 of the 1997 Charter mandates that the Council President be an ex-officio member of all committees. It is silent on all other members. It is the Council Rules that provide for the title to pass to the President Pro Tem. It was not, however, the intent of the Working Group when drafting the rules that this title would pass from member to member depending upon who is present at a meeting at any particular time. Such a cascading effect would work to contravene the Open Meetings Act by allowing each non-committee Council Member to participate in a Standing Committee

meeting simply by taking turns to appear within that meeting. Council Rules as they currently stand would seem to offer Council Members a method for intentionally violating the OMA something that was not anticipated and never intended. It is RAD's opinion that the same effect would occur should the Council name all Council Members ex-officio of all committees on which they do not sit. We suggest that the rules be amended to avoid any possible conflict with the OMA.

4. Who chairs the Standing Committee when the appointed Chair is absent?

The Council Rules do not address this issue and so we turn to Robert's Rules of Order, Newly Revised that is also silent on the issue. RAD consulted Coco Siewert who informed us that the standard procedure for most forms of assembly is as follows: If it has not previously been determined the Standing Committee Member who is first to arrive should assume the Chair.

5. Can you please explain the referral process?

Every day the Clerk receives items from the Administration, City departments, other agencies and the public that require City Council's attention. These items are presented to the Council President who determines which committee each item will be referred. This referral takes place during the Formal Session on Tuesday. Once an item has been referred to a Standing Committee it remains within the jurisdiction of that Committee.

Any additional reports or information relating to the item should be directed to the Chair of that Standing Committee and not to the Clerk or the President's office. Reports coming from a City Department in response to a request from a Committee may be sent to the Clerk simply to be passed on to the Standing Committee but they will not be placed on the Formal Agenda to be referred to the Committee because the issue has already been referred to the Committee.

When the Standing Committee has completed their work the Chair sends the matter to the Clerk with a direction to place it on the Council's Formal Agenda to be voted upon. The entire Body will then determine whether it is approved or rejected or sent back for further work by the Standing Committee.

6. Must a Council Member, or their staff make requests through a committee, or can we call the division staff and request information "off line"?

All assignments to Division staff must come through the Council table. Aside from the Standing Committee meeting being the only forum through

which the Committee works requesting information at the table allows the Clerk to know and keep a record of the actions taken; it also serves to put the other committee members on notice regarding the flow of information. Council Members may always call "off line" so to speak to request clarification about items or if assistance is needed.

7. What is the process for holding contracts in a committee? Can individual Council Members hold contracts?

Individual Council Members can no longer hold contracts. If a Council Member has questions or concerns about a contract, the questions should be given, in writing, to the Chair of the appropriate Standing Committee. It is then up to that Standing Committee to deal with the concerns. If a majority of the Standing Committee members are satisfied with the contract, it is sent to the Formal Session with a recommendation to approve, not to approve, or no recommendation (see Section 9.14).

8. What can the public talk about during the Public Comment portion of the Standing Committee calendar?

During the Public Comment portion of the Standing Committee calendar, the public may speak about any item on the agenda or about any issue that falls within the responsibility of that Standing Committee.

If the person wishes to speak about an issue not within the responsibility of that Standing Committee, they should be referred to the appropriate Standing Committee to express their concerns. If ever there is doubt about the propriety of a citizen's comment it is best to allow the person to speak.

9. What can the public talk about during the Public Comment portion of the Formal Session agenda?

During the Public Comment portion of the Formal Session agenda, a person may speak on any issue relevant to the responsibilities of the Detroit City Council. Please note that there may be occasions when the President may allow public comment on a specific item on the agenda at a particular time but this will always be in addition to the time allotted for general comment. Likewise public comment during the Committee of the Whole should be accepted on any issue within Council's jurisdiction.

10. Is it necessary to have a person fill out a speaker card or form if they want to speak during the Public Comment portion of the calendar or agenda?

According to the Rules of Order of the Detroit City Council, passed by resolution on February 28, 2007, effective September 1, 2007, Section 23.3:0.

“Speakers are required to get a numbered speaker card from the Sergeant-At-Arms to determine the order in which they will appear before Council. Speakers must identify themselves by name on the numbered speaker card. Any additional information requested on the speaker card is voluntary. No speaker shall be denied the right to speak if they do not complete all the information on the speaker card.”

Although this section refers to getting the card from the Sergeant-At-Arms, this is a Scrivener’s error. It is actually the responsibility of the Standing Committee Chair’s staff to provide the public with the card. RAD has developed a form on 8.5x11 inch paper that is to be used in lieu of an index card.

11. Is there a time limit for the speaker during Public Comment?

At both Standing Committee meetings and at Formal Session, the Chair determines the order of speakers and the length of time they may speak. It should be noted that at a Standing Committee meeting at which there is a quorum of the City Council present, the public must be given the same opportunity to speak as non-committee Council Members.

12. How should citizen complaints be addressed?

According to the Rules of Order of the Detroit City Council, passed by resolution on February 28, 2007, effective September 1, 2007, Section 17.1, Citizen’s Complaints:

“If a member is unable to resolve a constituent complaint, it may be referred to the Ombudsman, other City Departments, other governmental agencies, or the appropriate Standing Committee for consideration.”

As a general rule such complaints should be handled within the office of the Council Member receiving the complaint unless referred to one of the aforementioned departments or agencies. If the matter is of such magnitude that a Council Member deems it important the Council address the issue the Member may ask that the President refer the complaint to the appropriate Standing Committee for assistance.

13. How can I get a Task Force, or other event, videoed taped when a Standing Committee or other meeting of the City Council is in session?

All requests for taping of events should follow the procedure outlined in Council Rule 22.0 Videotaping of Council Sessions. In any event,

Standing Committee meetings take precedence over any other Council Member sponsored event. When staffing allows both events will be covered.